



ADRP Conference Summary

Review No. 171 – Quenched and Tempered Steel Plate exported from Finland, Japan and Sweden

Panel Member	Leora Blumberg
Review type	Review of Minister's decision
Date	28 July 2025
Participants	The Applicants (SSAB Companies) represented by Moulis Legal: <ul style="list-style-type: none">• Daniel Moulis, Director/Partner• Alistair Bridges, Special Counsel & Head of Regulatory• Humza Albarki, Lawyer
Time opened	2:30pm AEST
Time closed	2:57pm AEST

Purpose

The purpose of this conference was to obtain further information in relation to the review before the Anti-Dumping Review Panel (Review Panel) in relation to quenched and tempered steel plate exported from Finland, Japan and Sweden.

The conference was held pursuant to section 269ZZHA of the *Customs Act 1901* (the Act).

In the course of the conference, I was able to ask parties to clarify any argument, claim or specific detail contained in their application or submission. The conference was not a formal hearing of the review, and was not an opportunity for parties to argue their case before me.

In accordance with section 269ZZHA(2), in making a recommendation under subsection 269ZZK(1), I may have regard to:

- (a) further information provided at this conference to the extent that it relates to “relevant information” within the meaning of section 269ZZK(6) of the Act;
- (b) any conclusions reached at this conference based on “that relevant information”.

At the time of the conference, I advised the participants

- That the conference was being recorded and transcribed by Loghic Events, and that the recording would capture everything said during the conference.
- That the conference was being recorded for the Review Panel to have regard to when preparing a conference summary. The conference summary would then be



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published on the Review Panel's website.

- Any confidential information discussed during the conference would be redacted from the conference summary prior to publication.

Prior to the conference, participants were provided with a copy of the Review Panel's Privacy Statement. The Privacy Statement outlines who the conference recording and transcript may be disclosed to. The Privacy Statement is available on the Review Panel's website [here](#). The participants indicated that they understood the Privacy Statement and consented to:

- The recording of the conference; and
- The recording being dealt with as set out in the Privacy Statement.

Background

1. In a letter dated 21 July 2025, the Applicants' legal representative addressed the Secretariat requesting that consideration be given to holding a conference under s 269ZZHA of the Act to address the Review Panel relating to s 269ZZK(4A) of the Act.
2. In a letter dated 22 July 2025, the Review Panel requested that the Applicants provide an outline of the further information they wished to provide to the Review Panel, together with reasons to support the request that the Review Panel exercise its discretion to hold a conference with the Applicants to obtain that further information.
3. On 23 July 2025, the Applicants' legal representative submitted an outline of the further information that the Applicants wished to provide and reasons to support the exercise of discretion to hold a conference.
4. After consideration of the outline of the further information and reasons to support the exercise of discretion to hold a conference, the Reviewing Member decided to hold a conference with the Applicants under s 269ZZHA.

Further information

1. A written version of the further information that was presented orally at the conference is attached as Addendum 1.

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2. The following further clarifications were sought regarding the further information provided:

- a. The Reviewing Member requested that the Applicants substantiate the contention that in the Preliminary Reinvestigation Report ("PRR"), "the Commission did not take account of different lead times nor make a timing adjustment for pre-inquiry period purchase orders in its undercutting analysis". In this regard, the Applicants were requested to clarify why they consider that the Anti-Dumping Commission's ("ADC") revision of its analysis undertaken in REP 638 (based on invoice date) "to reflect the purchase order date as the appropriate date of price comparison, consistent with SSAB's submission", did not address the issue of timing and different lead times. See page 13 of the PRR.

See first clarification of the written version of the clarifications of the further information provided during the conference, attached as Addendum 2.

- b. Regarding the reference to the second requirement of the Review Panel's request for reinvestigation, it is stated:

*This requirement presupposed that the subject purchase orders **would be brought into the inquiry period price undercutting analysis**, which the Commission did not do, such that consideration could then be given to whether they be excluded from that analysis. [emphasis added]*

Please could the Applicants provide further explanation of the above-mentioned sentence, in particular, further clarification of the emphasised wording.

See second clarification of the written version of the clarifications of the further information provided during the conference, attached as Addendum 2.



In the Anti-Dumping Review Panel

SSAB - quenched and tempered steel plate from Sweden

Further information provided on behalf of SSAB for the purposes of the review

28 July 2025

The following is a record of the “further information” obtained by the Review Panel from SSAB’s legal representative, Moulis Legal, in the Section 269ZZHA conference held earlier today.

References to Sections are references to sections of the *Customs Act 1901* unless otherwise stated.

The Review Panel required the Anti-Dumping Commission to investigate a specific finding that formed the basis of the reviewable decision. The specific finding was the finding that the Commission’s pricing analysis showed that in relation to wear grade plate SSAB AU’s imports of dumped goods from Sweden undercut the Australian industry’s prices.

Under Section 269ZZL(2), the Commissioner must conduct a reinvestigation in accordance with the requirements of the Review Panel.

The first requirement was that the Commission reinvestigate its findings relating to the price undercutting analysis in respect of wear grade products to ensure comparability, in respect of timing, in compliance with its obligations under Section 269TAE(2AA), and that the Commission should reinvestigate whether the appropriate price comparisons should be based on the purchase orders of both SSAB AU and Bisalloy, rather than their invoice date.

The Commission did not follow this requirement because it maintained its focus, in the preliminary reinvestigation report, on a comparison *outside* the inquiry period. The Review Panel made clear, in its reinvestigation request, that SSAB’s contentions about the price undercutting analysis relating to comparability in respect of timing were valid. However, in the preliminary reinvestigation report, the Commission did not take account of different lead times nor make a timing adjustment for pre-inquiry period purchase orders in its undercutting analysis.

The second requirement was that the Commission reinvestigate and further consider whether the pre-inquiry period sales should have been excluded from the price undercutting analysis. This was required to be reinvestigated if the reinvestigation with respect to the first requirement resulted in the price comparison taking account of purchase orders before the inquiry period. This requirement presupposed that the subject purchase orders would be brought into the inquiry period price undercutting analysis (which the Commission did not do) such that consideration could then be given to whether they be excluded from that analysis.

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Thus, in having regard to the reinvestigation report, the Review Panel should conclude that:

- (a) the requirements and opinions expressed by the Review Panel in its reinvestigation request have not been addressed to the Review Panel's satisfaction; and
- (b) the Review Panel's reservations as to whether the Commission's recommendations to the Minister were correct or preferable have not been resolved.

Alternatively, as *per* the observations of Senior Panel Member, the Hon Michael Moore:

...it is highly arguable that what occurred did not constitute a reinvestigation of the type contemplated by s.269ZZL and that the report is not [a] Reinvestigation Report to which I must have regard under s.269ZZK(4A). I required a reinvestigation of the specified finding and consequential findings on the premise that s.269TACB(3) authorised only the comparison of export prices as a monetary amount. If s.269ZZL allows the Commissioner to report as he has in this matter, then the legislative scheme for review is, in my opinion, significantly flawed in this respect.¹

Daniel Moulis
Partner Director

¹ *Power Transformers exported from the Republic of Indonesia, Taiwan, the Kingdom of Thailand and the Socialist Republic of Vietnam* (ADRP Report No. 24, 30 September 2015, para 62).



In the Anti-Dumping Review Panel

SSAB - quenched and tempered steel plate from Sweden

Clarification of further information provided on behalf of SSAB for the purposes of the review

28 July 2025

The following is a record of “further information” obtained by the Review Panel from SSAB’s legal representative, Moulis Legal, in the Section 269ZZHA conference held earlier today. It is in the form of clarifications of the other “further information” that was requested by the Review Panel and provided by SSAB’s legal representative at the said conference.

References to Sections are references to sections of the *Customs Act 1901* unless otherwise stated.

1 First clarification

1. *Please could the applicants substantiate the contention that in the Preliminary Reinvestigation Report (“PPR”), “the Commission did not take account of different lead times nor make a timing adjustment for pre-inquiry period purchase orders in its undercutting analysis”. In this regard, please could the Applicants clarify why they consider that the ADC’s revision of its analysis undertaken in REP 638 (based on invoice date) “to reflect the purchase order date as the appropriate date of price comparison, consistent with SSAB’s submission”, did not address the issue of timing and different lead times. See page 13 of the PPR.*

The PRR attempts to make a comparison of certain pre-inquiry purchase orders placed on SSAB with certain pre-inquiry purchase orders placed on Bisalloy at the same pre-inquiry period time. This is admitted on page 13 of the PRR, where the Commission states that it “conducted a price undercutting analysis using purchase order date as the date of comparison”. Then, after a feeble attempt to suggest SSAB told the Commission to do what the Commission went on to do (“consistent with SSAB’s submission”), and after multiple admissions of non-comparability, and multiple assumptions regarding MCCs, prices, customers, levels of trade, and commercial behaviour by third parties, intended to overcome non-comparability, and all tilted against SSAB, the Commission arrived at a pre-inquiry period “finding” of price undercutting.

With respect, the Commission just does not understand or has chosen to actively ignore the fundamental point that the ADRP carefully and repeatedly explained in the reinvestigation request, which is that an injury determination must be based on positive evidence and an objective examination. The ADRP made the observation, in that request, that there was no indication in the Commission’s Inquiry 638 report that the Commission took account of different lead times or a timing adjustment in its undercutting analysis in

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Inquiry 638 “*notwithstanding that this would not be an unusual consideration in an investigation*”. There is no indication in the PRR that this has been done, whether or not SSAB agrees that such an approach would be admissible, and every indication that it has not been done.

2 Second clarification

2. *Regarding the reference to the second requirement (referred to in the 5th paragraph under Section 2), the draft written response states:*

*“This requirement presupposed that the subject purchase orders **would be brought into the inquiry period price undercutting analysis**, which the Commission did not do, such that consideration could then be given to whether they be excluded from that analysis.” [emphasis added]*

Please could the applicants provide further explanation of the above-mentioned sentence, in particular, further clarification of the emphasised wording.

Based on the ADRP’s reinvestigation request, it was our assumption that taking account of different lead times or making a timing adjustment was a suggestion on the ADRP’s part for the Commission to consider in order to render the purchase order sales “comparable” with Bisalloy sales in the inquiry period. It would only be in the circumstances where the Commission had done that, that the question would arise as to whether it was appropriate for the pre-inquiry period orders to be treated, and to be considered, in that way in the price undercutting analysis, or whether it was appropriate that they be excluded.

This understanding of the Commission’s “Section B issue” underlies and explains the sentence concerned and the emphasised wording therein.

Daniel Moulis
Partner Director